

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

EMPOWER OVERSIGHT  
WHISTLEBLOWERS & RESEARCH,

Plaintiff,

v.

UNITED STATES DEPARTMENT  
OF JUSTICE,

Defendant.

No. 1:23-cv-00095-LMB-JFA

**PLAINTIFF’S OPPOSITION TO DEFENDANT’S MOTION FOR A 30-DAY  
EXTENSION OF TIME TO FILE ITS RESPONSE TO THE COMPLAINT**

Empower Oversight respectfully opposes the Defendant Department of Justice’s motion (Dkt. No. 7) for a thirty-day extension of time to file its response to the complaint in this case.

Less than a week ago, on February 17, 2023, the Department contacted Empower Oversight to explain that the agency was still in the process of searching for documents responsive to Empower’s FOIA requests. The Department asked Empower Oversight to consent to a sixty-day of extension of time for it to file its response to the complaint by April 25, 2023, as the agency processed the request. Empower Oversight responded the same day, stating that it would not agree to the proposed sixty-day extension of time because it already was “frustrated by the DOJ’s inaction and extended delay” in this case. Empower Oversight reasonably explained why:

- Empower Oversight submitted its FOIA request to the Department more than one year ago on January 28, 2022, and it requested expedited production at that time.
- The DOJ Office of Information Policy (OIP) acknowledged receipt of the request on February 2, 2022, and the DOJ National Security Division (NSD) acknowledged receipt of the request on March 18, 2022. Since then, neither OIP nor NSD has produced any documents or made a proper determination required by FOIA.

- On March 14, 2022, OIP suggested that it had “initiated records searches in response” to Empower Oversight’s FOIA request, and it asked whether Empower Oversight would consider narrowing the date range. Empower Oversight responded that it was not interested in narrowing the date range because the requested time period—“March 6, 2018, through the present”—specifically refers to the congressional oversight correspondence and the Department’s responses.
- Now, almost a year later in 2023 after Empower Oversight filed this lawsuit, the Department has indicated that it still is “in the process of searching for documents responsive to Empower’s FOIA requests.”
- Empower Oversight acknowledged in its complaint (§ 35) that FOIA does not assign a particular timeframe for an agency to comply with the statutory requirement to make documents “promptly available.” Yet, depending on the circumstances, this requirement “typically would mean within days or a few weeks of a ‘determination,’ *not months or years.*” *CREW v. FEC*, 711 F.3d 180, 188 (D.C. Cir. 2013) (emphasis added).
- In this case, DOJ has made no determination and produced no documents, even after more than one full year already has passed.

On February 22, 2023, the Department responded to Empower Oversight’s email, asking instead for a thirty-day extension of time to file its response. Empower Oversight responded the following day, offering to consent to a fourteen-day extension of time.

The Department instead moved for thirty days. Empower Oversight partially opposes the motion because it already has taken the agency far too long to process the FOIA requests. The Department’s response is currently due tomorrow, February 24, 2023. Empower Oversight requests that the Court deny the Department’s motion in part and that it instead grants a fourteen-day extension of time.

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For the foregoing reasons, Empower Oversight requests that the Court provide partial relief to the Department by granting a fourteen-day extension of time for the agency to file its response by March 10, 2023.

February 23, 2023

Respectfully submitted,

/s/ Jeffrey S. Beelaert  
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